

AMENDED IN SENATE MAY 5, 2009
AMENDED IN SENATE APRIL 27, 2009

SENATE BILL

No. 218

Introduced by Senator Yee
(Coauthors: Senators DeSaulnier and Runner)
(Coauthors: Assembly Members Beall, DeVore, Furutani, Portantino,
and Smyth)

February 23, 2009

An act to add ~~Sections 71052, 89049, and~~ *Section* 92034 to the Education Code, and to amend Section 6252 of the Government Code, relating to public records.

LEGISLATIVE COUNSEL'S DIGEST

SB 218, as amended, Yee. Public records: state agency: nonprofit entity.

The California Public Records Act requires state and local agencies to make their records available for public inspection and to make copies available upon request and payment of a fee unless they are exempt from disclosure. The act defines the term "state agency" for purposes of the act.

This bill would revise the definition of the term "state agency" to additionally include ~~any entity, including, but not limited to, a nonprofit corporation, that receives public funds or performs a governmental function on behalf of the California Community Colleges, the California State University, or the University of California~~ *an organization operating pursuant to specific provisions of the Education Code, or an entity that operates a campus facility, including, but not limited to, a bookstore, sports complex, arena, theater, student center, parking*

program, or other similar activity at a California public postsecondary education institution.

This bill would also provide that it is the intent of the Legislature to reject the court's interpretation of state law regarding the application of the act to auxiliary ~~bodies~~ *organizations, such as the CSU Fresno Association, at issue in California State University, Fresno Assn., Inc. v. Superior Court (2001) 90 Cal.App.4th 810.*

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 71052 is added to the Education Code,~~
2 ~~to read:~~
3 ~~71052. Chapter 3.5 (commencing with Section 6250) of~~
4 ~~Division 7 of Title 1 of the Government Code applies to any entity,~~
5 ~~including, but not limited to, a nonprofit corporation, that receives~~
6 ~~public funds or performs a governmental function on behalf of the~~
7 ~~California Community Colleges.~~
8 ~~SEC. 2. Section 89049 is added to the Education Code, to read:~~
9 ~~89049. Chapter 3.5 (commencing with Section 6250) of~~
10 ~~Division 7 of Title 1 of the Government Code applies to any entity,~~
11 ~~including, but not limited to, a nonprofit corporation, that receives~~
12 ~~public funds or performs a governmental function on behalf of the~~
13 ~~California State University.~~
14 ~~SEC. 3.~~
15 ~~SECTION 1.~~ Section 92034 is added to the Education Code,
16 ~~to read:~~
17 ~~92034. Chapter 3.5 (commencing with Section 6250) of~~
18 ~~Division 7 of Title 1 of the Government Code applies to any entity,~~
19 ~~including, but not limited to, a nonprofit corporation, that receives~~
20 ~~public funds or performs a governmental function on behalf of the~~
21 ~~University of California: whose purpose is to promote or assist~~
22 ~~the Regents of the University of California, or to receive gifts,~~
23 ~~property, and funds to be used for the benefit of the regents, or~~
24 ~~any person or organization having an official relationship with~~
25 ~~the regents.~~
26 ~~SEC. 4.~~
27 ~~SEC. 2.~~ Section 6252 of the Government Code is amended to
28 ~~read:~~

6252. As used in this chapter:

(a) “Local agency” includes a county; city, whether general law or chartered; city and county; school district; municipal corporation; district; political subdivision; or any board, commission or agency thereof; other local public agency; or entities that are legislative bodies of a local agency pursuant to subdivisions (c) and (d) of Section 54952.

(b) “Member of the public” means any person, except a member, agent, officer, or employee of a federal, state, or local agency acting within the scope of his or her membership, agency, office, or employment.

(c) “Person” includes any natural person, corporation, partnership, limited liability company, firm, or association.

(d) “Public agency” means any state or local agency.

(e) “Public records” includes any writing containing information relating to the conduct of the public’s business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. “Public records” in the custody of, or maintained by, the Governor’s office means any writing prepared on or after January 6, 1975.

(f) “State agency” means every state office, officer, department, division, bureau, board, and commission or other state body or agency, ~~or an entity subject to Section 71052, 89049, or 92034 of the Education Code~~ *an organization operating pursuant to Section 72670, 89305, 89901, or 92034 of the Education Code, or an entity that operates a campus facility, including, but not limited to, a bookstore, sports complex, arena, theater, student center, parking program, or other similar activity at a California public postsecondary education institution*, except those agencies provided for in Article IV (except Section 20 thereof) or Article VI of the California Constitution.

(g) “Writing” means any handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored.

1 ~~SEC. 5.~~

2 *SEC. 3.* It is the intent of the Legislature in enacting this act to
3 construe and clarify the meaning and effect of existing law and to
4 reject the court's interpretation of state law regarding the
5 application of the California Public Records Act (Chapter 3.5
6 (commencing with Section 6250) of Division 7 of Title 1 of the
7 Government Code) to auxiliary ~~bodies~~ *organizations, such as the*
8 *CSU Fresno Association, at issue* in California State University,
9 Fresno Assn., Inc. v. Superior Court (2001) 90 Cal.App.4th 810.

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